

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Eddie Lane,

Plaintiff,

vs.

New Gencoat, Inc., Gencoat Inc.,
Genesis Worldwide Inc.,

Defendants.

Civil Action No.: 3:18-cv-01386-JMC

PLAINTIFF'S RESPONSE IN OPPOSITION OF
DEFENDANT'S MOTION TO DISMISS

Plaintiff Eddie Lane submits this response to the Defendant New Gencoat's motion to dismiss outlining why the court should deny the motion and allow the Plaintiff an opportunity to amend the Complaint.

FOURTH CIRCUIT RULES AND PRECEDENT

Federal Rule of Civil Procedure 15(a)(1)(B) provides that a party may amend its pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a)(1)(B). Amendment should be refused only if it appears to a certainty that the plaintiff cannot state a claim. *Ostrzenski v. Seigel*, 177 F.3d 245, 253 (4th Cir. 1999). The Fourth Circuit has stated that a plaintiff must be given every opportunity to cure a formal defect in his pleading. *Id.* at 252-53.

CONCLUSION

For these reasons, the Plaintiff respectfully requests that the Defendant's motion to dismiss be denied.

Respectfully submitted this 2nd day of July, 2018.

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July 2, 2018
Columbia, South Carolina